

MEMORANDUM ENDORSEMENT

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Mendel Stern, et al., v. Highland Lake Estates Homeowners Association, et al., 18-Civ-4622

The Court is in receipt of a motion seeking dismissal of: (1) claims asserted by Plaintiffs Israel Ostreicher, Avrohom Ostreicher, Esther Schwimmer, Joel Sabel, and Abraham Kohn (collectively, “Settling Plaintiffs”) against Defendants Highland Lake Homeowners Association, Arthur Edwards, Inc., Archway Property Management, Inc., Carmine Mastrogiacomo, Christopher Perino, Alex Rubanovich, Nancy Diaz, and Ray Torres (collectively, “Defendants”); and (2) all counterclaims asserted by Defendants against Settling Plaintiffs. (ECF No. 94.) The motion is supported by the Affirmation of Michael H. Sussman, in which he affirms, among other things, that (A) Settling Plaintiffs negotiated a satisfactory settlement agreement with Defendant Highland Lake Homeowners Association and accordingly seeks to voluntarily discontinue their claims; and (B) counsel for Defendants consents to dismissing Defendants’ counterclaims against the Settling Plaintiffs. (ECF No. 95.)

Mr. Sussman’s representation that Defendants wish to voluntarily discontinue their counterclaims against Settling Plaintiffs is an insufficient record for this Court to dismiss counterclaims with prejudice. Instead, the Court instructs Defendants’ counsel to write to this Court on, or before, April 30, 2021, to confirm whether Defendants consent to the voluntary dismissal of counterclaims against the Settling Plaintiffs. In the event that the Settling Plaintiffs and Defendants agree to resolve claims by and against those parties, they are further instructed to submit a jointly signed and submitted stipulation of voluntary dismissal of the relevant claims.

Dated: April 21, 2021
White Plains, NY

SO ORDERED.



Nelson S. Román, U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MENDEL STERN, et al.,

Plaintiffs,

vs.

18 CV 4622 (NSR)

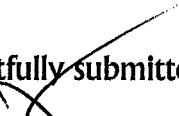
HIGHLAND LAKE ESTATES HOMEOWNERS
ASSOCIATION, et al.,

Defendants.

**MOTION FOR VOLUNTARY DISMISSAL OF PLAINTIFFS
ISRAEL OSTREICHER, AVROHOM OSTRECIHER,
ESTHER SCHIMMER, JOEL SABEL & ABRAHAM KOHN**

Pursuant to F.R.Civ.P. 41(a)(2) and with the consent of defendants, plaintiffs Israel Ostreicher, Avrohom Ostreicher, Esther Schwimmer, Joel Sabel and Abraham Kohn hereby move for entry of an Order dismissing each and every claim they asserted in this matter and each and every counterclaim defendants asserted against them with prejudice and without costs or fees.

Respectfully submitted,


MICHAEL H. SUSSMAN [3497]

SUSSMAN & ASSOCIATES
PO BOX 1005
GOSHEN, NEW YORK 10924
(845)-294-3991

Counsel for Plaintiffs

Dated: March 24, 2021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MENDEL STERN, et al.,

Plaintiffs,

18 civ 4622 (NSR)

v.

HIGHLAND LAKE ESTATES HOMEOWNERS
ASSOCIATION, et al.,

Defendants.

X

AFFIRMATION OF COUNSEL IN SUPPORT OF MOTION

Michael H. Sussman, having been duly sworn, hereby states and deposes:

1. I represent each of the five moving plaintiffs in this matter and have done so since the onset of this litigation.
2. Each of these plaintiffs has advised me that s/he wishes to dismiss her/his claims with prejudice as s/he has worked out a satisfactory agreement with the Highland Lake Homeowners Association. My office did not negotiate these agreements and I am not privy to their details. However, each plaintiff has advised me of his/her desire to withdraw from this litigation as a consequence of said agreements. I have explained to each that such withdrawal will be with prejudice and final as to those claims.
3. I have conferred with counsel for defendants who have stated that they, too, did not negotiate the relevant individual agreements with each of the aforementioned plaintiffs but are aware of the same and are in agreement that the Court may enter an order [a] allowing these plaintiffs to dismiss their claims against their

clients and [b] dismissing their clients' counterclaims claims against these plaintiffs, all with prejudice.

4. By and through a separate motion, I am also seeking leave to withdraw as counsel for the four remaining plaintiffs. The basis for that motion shall be set forth in my Affirmation in support thereof.

WHEREFORE, the court should enter the requested order allowing the five identified plaintiffs to withdraw their claims with prejudice and to dismiss the counterclaims defendants interposed against them with prejudice.



MICHAEL H. SUSSMAN [3497]

Dated: March 24, 2021